

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO.8156 OF 2004

Shri Shyamsunder s/o Thakur Prasad

Pandit, .. Petitioner.

Vs

Santosh Kumar, .. Respondent

Mr. Anil Singh i/b Mr D.R. Shah, for the petitioner.

Mr V.R. Tripathi, for the respondent.

CORAM : D.B. BHOSALE, J.

DATE : 19th October, 2004.

PC:

1. Rule. Returnable forthwith. Mr. Tripathi, learned counsel for the respondent waives service. By consent, rule is heard finally.

2. By this petition, the petitioner has impugned the order dated 24.8.2004 recorded during the cross-examination of the plaintiff. The order reads thus :

"In this case that the evidence on affidavit though proceeding on various aspect, I directed the parties to confine themselves to the issue in this suit as framed vide Exh.No.3. In that context, I refused the permission to Mr Tripathi to cross-examine the witness on the other issues specifically pertaining to alleged will, validity

of adoption."

3. I heard the learned counsel for the parties, perused the material placed before me and in particular the averments in paragraph 4 of the Plaint. The learned counsel appearing for the parties state that I need not record reasons for allowing this petition. The learned counsel for the respondent has agreed for the following order subject to his right to challenge the adoption in question.

(i) The order refusing permission to the learned counsel for the respondent to cross-examine the witness on the issue of validity of adoption is set aside. Consequently, the defendant is allowed to cross-examine the plaintiff on the issue pertaining to the validity of adoption only.

(ii) Rule, accordingly, stands disposed of.

(D.B.BHOSALE, J.)